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April 12, 2006

DEPARTMENT OF ENERGY
OFFICE OF HEARINGS AND APPEALS

Hearing Officer's Decision

Name of Case: Personnel Security Hearing

Date of Filing: August 9, 2005

Case Number: TSO-0280

This Decision concerns the eligibility of xxxxxxxxxxxxxxxxxxxxxxxxx (hereinafter referred to as "the individual") to hold an access authorization under the regulations set forth at 10 C.F.R. Part 710, entitled "Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material." ^{1/} A Department of Energy (DOE) Operations Office suspended the individual's access authorization under the provisions of Part 710. As discussed below, after carefully considering the record before me in light of the relevant regulations, I have determined that the individual's access authorization should not be restored.

I. Background

The provisions of 10 C.F.R. Part 710 govern the eligibility of individuals who are employed by or are applicants for employment with the DOE, DOE contractors, agents, DOE access permittees, and other persons designated by the Secretary of Energy for access to classified matter or special nuclear material. Part 710 generally provides that "[t]he decision as to access authorization is a comprehensive, common-sense judgment, made after consideration of all relevant information, favorable or unfavorable, as to whether the granting of access authorization would not endanger the common defense and security and would be clearly consistent with the national interest." 10 C.F.R. § 710.7(a).

The individual has been employed by a DOE contractor in a position that requires him to maintain an access authorization. In 2004, the DOE received derogatory information about the individual that created a substantial doubt regarding his eligibility. Based on this derogatory information, the DOE conducted a Personnel Security Interview (PSI) with the individual on January 28, 2005. As a result of that interview, DOE referred the individual to a psychiatrist (DOE consultant-psychiatrist) for a

^{1/} An access authorization is an administrative determination that an individual is eligible for access to classified matter or special nuclear material. 10 C.F.R. § 710.5. Such authorization will be referred to variously in this Decision as an access authorization or security clearance.

psychiatric evaluation. The DOE consultant-psychiatrist examined the individual, and memorialized his findings in a report dated April 27, 2005 (Psychiatric Report or DOE Exhibit 4). In the Psychiatric Report, the DOE consultant-psychiatrist opined that the individual has a mental condition which causes or may cause a significant defect in his judgment or reliability. Since information creating doubt as to the individual's eligibility for a security clearance remained unresolved after the psychiatric evaluation, the DOE suspended the individual's security clearance and the local DOE security office (DOE Security) initiated formal administrative review proceedings.

The DOE then issued a Notification Letter to the individual which identified the derogatory information that cast doubt on his continued eligibility for access authorization. The Notification Letter alleges that the individual has an illness or mental condition which in the opinion of a psychiatrist causes, or may cause, a significant defect in judgment and reliability of the individual. 10 C.F.R. § 710.8(h) (Criterion H). In a letter received by the DOE Office of Hearings and Appeals (OHA) on August 9, 2005, the individual exercised his right under Part 710 to request a hearing in this matter. 10 C.F.R. § 710.21(b). On August 31, 2005, I was appointed as Hearing Officer in this case. After conferring with the individual and the appointed DOE Counsel, 10 C.F.R. § 710.24, I established a hearing date.

At the hearing, the DOE Counsel called a DOE Personnel Security Specialist, the DOE consultant-psychiatrist, and a clinical psychologist. Apart from testifying on his own behalf, the individual called six character witnesses, including a former supervisor. The transcript taken at the hearing will be hereinafter cited as "Tr." Various documents submitted by the DOE Counsel will be cited as "DOE Exh." and those submitted by the individual as "Ind. Exh."

II. Summary of Findings

In August 2004, the individual voluntarily reported to the local site office that he had been charged with family abuse based on an altercation with his wife. ^{2/} Subsequently, the individual's employer placed him on "access denial" status and the individual was advised that his access authorization was being suspended until a fitness for duty evaluation could be conducted for him. In September 2004, a clinical psychologist conducted a fitness for duty evaluation of the individual at the employer's request. In his September 17, 2004 report, the clinical psychologist opined that the individual suffers from a Delusional Disorder, Persecutory Type, overlaying a Mixed Personality Disorder with Narcissistic and Paranoid features. DOE Exh. 1 at 4. Based on his evaluation of the individual, which included some clinical testing, the clinical psychologist concluded that the individual "is at significantly increased risk of symptomatic behavior, likely involving frank paranoid perceptions, distorted reasoning, misjudgments of others, and quite possibly aggressive or assaultive actions."

^{2/} According to evidence in the record, the individual was informed by a security guard at work that his wife was not being honest with him about her whereabouts. The individual subsequently contacted his wife by phone and went home to talk with her. At this point an argument or altercation ensued between them. The individual was subsequently arrested and charged with family abuse. Two protective orders were issued at the request of his wife, but were later terminated.

Id. Although not necessarily at imminent risk of dangerous behavior, he concluded that the individual is likely to remain at chronic and situationally-elevated risk in the current work environment unless treated. *Id.* The clinical psychologist further recommended that the individual be placed on medical leave from his work duties, pending immediate psychiatric consultation and likely treatment with prescribed neuroleptic medication. *Id.* In addition, the clinical psychologist opined that the individual would benefit from supportive individual counseling to assist him in managing his reactions to his current marital conflict and the disruption of his work duties. *Id.*

In addition to the fitness for duty evaluation, the individual's employer referred him to his attending physician, a psychiatrist, who was asked to address the following areas in regard to the individual's current medical condition: (1) diagnosis; (2) prognosis; (3) treatment; (4) follow-up treatment, and (5) statement addressing the individual's reliability, judgment and ability to resume his normal duties. 3/ DOE Exh. 2. The attending physician diagnosed the individual with Partner Relational Problem. He further stated that the individual's prognosis was good and recommended marital therapy, referring him to a marriage counselor. Finally, the attending physician stated that the individual "exhibited no information or symptoms indicative of mental illness." *Id.*

On January 28, 2005, DOE conducted a PSI with the individual to resolve these security concerns and other issues pertaining to the individual. 4/ Due to unresolved security concerns relating to the individual's mental status and issues in the workplace, DOE Security referred the individual to the DOE consultant-psychiatrist who reviewed the individual's personnel file and performed a psychiatric interview and evaluation of the individual. His evaluation included a summary of psychological testing conducted by an associate, a psychologist in his practice. In his report issued on April 27, 2005, the DOE consultant-psychiatrist opined that the individual met the criteria for Narcissistic Personality Disorder as set forth in the *Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, TR (DSM-IV TR)*. DOE Exh. 4. He further concluded that the individual "has insufficient judgment and reliability to manage the responsibilities of an access authorization, or security clearance." *Id.*

3/ The attending physician did not have a long-standing relationship with the individual. He evaluated him based on a one-and-one-half-hour visit as did the clinical psychologist and the DOE consultant-psychiatrist.

4/ During the course of the January 28, 2005 PSI, the Personnel Security Specialist discussed various issues with the individual, including the following: (1) the individual's "access denial" status which was initiated by his employer resulting in a three-day suspension without pay; (2) a disciplinary report issued by his employer in 2001 because the individual had failed to be respectful and tolerant of co-workers and a representative of management; (3) the individual's referral to the Employee Assistance Program (EAP) and his discussions with an EAP counselor regarding his belief that he was being harassed by certain individuals; and (4) more details concerning the August 2004 incident between the individual and his wife. *Id.* at 28.

III. Analysis

A DOE administrative review proceeding under 10 C.F.R. Part 710 is not a criminal matter, in which the burden is on the government to prove the defendant guilty beyond a reasonable doubt. *See Personnel Security Hearing*, Case No. VSO-0078, 25 DOE ¶ 82,802 (1996). In this type of case, we are dealing with a different standard designed to protect national security interests. A hearing is “for the purpose of affording the individual an opportunity of supporting eligibility for access authorization.” 10 C.F.R. § 710.21(b)(6). Once DOE Security has made a showing of derogatory information raising security concerns, the burden is on the individual to come forward at the hearing with evidence to convince the DOE that restoring his access authorization “would not endanger the common defense and security and would be clearly consistent with the national interest.” 10 C.F.R. § 710.27(d). This standard implies that there is a strong presumption against the granting or restoring of a security clearance. *See Department of Navy v. Egan*, 484 U.S. 518 (1988) (“clearly consistent with the national interest” standard for the granting of security clearances indicates “that security determinations should err, if they must, on the side of denials”); *Dorfmont v. Brown*, 913 F.2d 1399, 1403 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991) (strong presumption against the issuance of a security clearance).

I have thoroughly considered the record in this proceeding, including the submissions tendered in this case and the testimony of the witnesses presented at the hearing. In resolving the question of whether the individual’s access authorization should be restored, I have been guided by the applicable factors prescribed in 10 C.F.R. § 710.7(c): the nature, extent, and seriousness of the conduct; the circumstances surrounding the conduct, to include knowledgeable participation; the frequency and recency of the conduct; the voluntariness of the participation; the absence or presence of the conduct; the potential for pressure, coercion, exploitation, or duress; the likelihood of continuance or recurrence; and other relevant and material factors. After due deliberation, it is my determination that the individual’s access authorization should not be restored since I cannot conclude that such restoration would not endanger the common defense and security and would be clearly consistent with the national interest. 10 C.F.R. § 710.27(d).

A. Hearing Testimony

1. The Personnel Security Specialist

DOE Security alleged in the Notification Letter that the individual has a “mental condition of a nature which, in the opinion of a psychiatrist causes, or may cause, a significant defect in judgment or reliability.” 10 C.F.R. § 710.8 (h). The DOE Personnel Security Specialist testified about DOE’s security concerns in this case. He stated that DOE’s concern is that “emotional, mental and personality disorders can cause a significant defect in an individual’s psychological, social and occupational functioning.” Tr. at 35. The DOE Personnel Security Specialist further testified that these disorders are a security concern because they may indicate a defect in judgment, reliability or stability,” particularly once a diagnosis is made by a credentialed medical health professional. *Id.*

2. The Clinical Psychologist

The clinical psychologist testified about his September 2004 fitness for duty evaluation of the individual and reiterated the conclusions he made in his report. As part of his evaluation, the clinical psychologist stated that he met with the individual for a face-to-face interview and administered two psychological tests, a Personality Assessment Inventory (PAI) and a Sentence Completion Instrument. He stated that his most noteworthy finding on the PAI was that the individual's responses to the overall test itself were markedly defensive. Tr. at 62. However, the clinical psychologist explained that "defensive test-taking responses are common in personnel selection and in any situation where an individual is referred by a third party, . . . where they are not voluntarily presenting themselves for clinical services or assessment or treatment services." *Id.* Notwithstanding this finding, the clinical psychologist stated that the individual's scores on the clinical scales were all technically within normal limits. He added, however, that "with that kind of defensiveness [exhibited in the individual's responses], the clinical profile tends to be suppressed." *Id.* at 63. The clinical psychologist indicated that one of the subscales measuring grandiosity was significantly elevated, "almost to two standard deviations above the mean." *Id.* at 64. He stated that this finding suggests "thought content marked by inflated self-esteem, expansiveness, grandiosity and overconfidence." *Id.* The clinical psychologist testified to the following:

The general picture here is one that was fairly consistent . . . with interview findings of a gentleman . . . perceiving other people in his workplace as working against him, conspiring to prevent him from progressing with his plans, for example, to achieve his college degree. He told me that he was taking classes at a local college and was trying to obtain a degree; felt that he was kept from progressing in the workplace, being promoted and receiving promotions and privileges that he deserved; described himself as having unusual abilities and competencies. For example, some of the noteworthy findings, responses to the PAI items saying "I have many brilliant ideas," which he endorsed as being mostly true.

Id. at 65.

The clinical psychologist testified that grandiosity is "probably the central defining feature of a narcissistic personality," and thus his finding of a highly-elevated subscale for grandiosity would support the Narcissistic Personality Disorder diagnosis. In addition to these test findings, he had other information concerning the individual available for his review, including telephone contact with the human resources department from the individual's employer as well as a written statement that the individual submitted on his own behalf concerning domestic matters with his wife. 5/

5/ In the individual's written statement, "he [the individual] referenced what he believed to be an organized trap put into work by my wife, the security guard and his girlfriend. He [the individual] referenced his wife pressuring him to quit his job, to stop going to classes. He [the individual] indicated that he believes that his wife was trying to cause him to lose his job and his children, to get arrested or even be killed. He further stated that he perceived his wife was hoping he would become so enraged at being served a protective order that he would violate the order by going to the marital home and she would be justified in shooting or killing him." *Id.* at 73. The clinical psychologist stated that the general nature of these thoughts is persecutory and paranoid.

With regard to his contact with the human resources department, the clinical psychologist stated that he was told that the individual has “some intermittent but chronic and long-standing problems in the workplace.” *Id.* at 69. He stated that the individual was “described as a loner, having alienated others in the workforce by suddenly provoking them. He was said to have ‘a chip on his shoulder mentality’ ever since coming to work there five years ago making it difficult for others to get along with him. [The individual] was described as having been the catalyst for problems that occurred around him several years ago, creating a hostile work environment and encountering problems with numerous people here.” *Id.* at 70.

The clinical psychologist emphasized that there was no one element that was of particular concern to him but rather a collection of information that created the concern on which he based his clinical conclusions. He reiterated that it was his recommendation that the individual be considered “as not psychologically fit for duty for his current position with this company.” *Id.* at 79. The clinical psychologist further testified that he recommended that the individual be seen by a psychiatrist for evaluation and for likely treatment with a prescribed antipsychotic medication as well as supportive treatment such as counseling for the individual’s situational problems, e.g., marital problems and workplace conflicts. *Id.* With respect to his prognosis for the individual overcoming his problems, the clinical psychologist testified that the individual’s prognosis for remission of Axis I symptoms (paranoid disorder or delusional disorder) is fair to good, however he testified that he would expect that a personality disorder would be significant “and could recur at some point with the addition of further stressors.” *Id.* at 80. The clinical psychologist stated that a complicating factor here is that the individual expresses resistance to the idea of mental health intervention or to the idea that he has any psychological symptoms at all, thus limiting the likelihood that he would seek and be compliant with a treatment program. *Id.*

3. The DOE Consultant-Psychiatrist

The DOE consultant-psychiatrist testified that he reviewed the individual’s file prior to the March 2005 interview. After conducting an hour and a half clinical interview with the individual, the DOE consultant-psychiatrist referred the individual to one of his associates, a clinical psychologist, who also evaluated the individual, reviewed the individual’s scores on the Minnesota Multiphasic Personality Inventory Test (MMPI-2) given by the DOE consultant-psychiatrist and administered additional psychological testing (including a sentence completion test and projective drawings test). The DOE consultant-psychiatrist testified that after administering the MMPI-2, he still had some questions remaining “that were out of my specialization of psychological evaluation of using objective measurements. I have some training in that area, but [his associate] has more training, so I asked him to review . . . that psychological test and other psychological tests.” Tr. at 240. With regard to his associate’s report (which the DOE consultant-psychiatrist attached to his report), the DOE consultant-psychiatrist testified that the report indicates that the individual’s MMPI-2 results

were not elevated, but the results on the other two tests did show some indications of some problems. *Id.* 6/

The DOE consultant-psychiatrist further testified that the general definition of a personality disorder is that it is an “enduring pattern of inner experiences and behavior that’s a marked deviation from the expectations of the culture . . . a very pervasive pattern, tends to be inflexible and tends to be lifelong.” *Id.* at 242. He stated that the essential feature of Narcissistic Personality Disorder included a “pervasive pattern of grandiosity, need for admiration and lack of empathy beginning in early adulthood and present in a variety of contexts. . . .” *Id.* at 243. 7/ The DOE consultant-

6/ In his report, the DOE consultant-psychiatrist’s associate made the following conclusions regarding the individual’s test results:

[The individual’s] responses on the MMPI-2 resulted in a profile that suggests he responded in an accurate and honest fashion. His clinical scales did not reveal any significant elevations. His projective testing suggests that he has a rather inflated self-esteem and attempts to project an air of competence and confidence. While he tries to maintain this outward portrayal of stability, he appears to be struggling with self-doubt and insecurities. He does not appear too secure with himself or his abilities. He appears somewhat emotionally inexperienced and feels threatened when conversation and issues precipitate an emotional reaction. He is paranoid at times and claimed that the hardest thing in his day is “trying to understand what the big secret is.” He is at times focused on his religious beliefs, but these beliefs seem to evoke more fear and worry than comfort. He seems to question whether he is “living right.” His children are a source of pride for him and he described them as “intelligent” and “amazing.” He appears to have some animosity towards his wife, sees her as selfish and finds her choices quite puzzling.

DOE Exh. 4 - Attached Psychological Evaluation.

7/ According to the *DSM-IV TR*, this feature is indicated by five or more of the following criteria:

- (1) has a grandiose sense of self-importance (e.g., exaggerates achievements and talents, expects to be recognized as superior without commensurate achievements)
- (2) is preoccupied with fantasies of unlimited success, power, brilliance, beauty, or ideal love
- (3) believes that he or she is “special” and unique and can only be understood by, or should associate with, other special or high-status people (or institutions)
- (4) requires excessive admiration
- (5) has a sense of entitlement, i.e., unreasonable expectations of especially favorable treatment or automatic compliance with his or her expectations
- (6) is interpersonally exploitative, i.e., takes advantage of others to achieve his or her own ends
- (7) lacks empathy: is unwilling to recognize or identify with the feelings and needs of others
- (8) is often envious of others or believes that others are envious of him or her
- (9) shows arrogant, haughty behaviors or attitudes

DSM IV TR at 714, 717.

psychiatrist satisfied at least five of these criteria, and he diagnosed the individual with Narcissistic Personality Disorder. He stated that the fact that his associate reported that the MMPI-2 clinical scales were not significantly elevated was not inconsistent with his diagnosis, adding that “individuals with significant paranoia and significant narcissism do come out with normal profiles.” *Id.* at 248. He agreed with the clinical psychologist that it is the combination of a number of factors that contribute to a diagnosis of Narcissistic Personality Disorder. *Id.* at 255. The DOE consultant-psychiatrist reiterated that the individual’s diagnosis is “of a significant severity” that it affects his judgment and reliability. *Id.*

4. The Individual

At the hearing, the individual disagreed with the diagnosis of the DOE consultant-psychiatrist and that of the clinical psychologist. He found it difficult to understand how these experts viewed his personality characteristics as evidence of a mental illness. For instance, the individual questioned how his confidence level was viewed negatively by the DOE consultant-psychiatrist. Tr. at 256. He suggested that perhaps his size and body-frame make others feel uncomfortable and unable to communicate effectively with him. *Id.* at 256-263. The individual further asserts that it is his style to be direct in communicating with others, especially at work, sometimes offending people in the process. *Id.* at 264. In response to the clinical psychologist’s testimony, the individual questioned how he was seen as paranoid when he was experiencing “daily harassment on the job about his career goals and intentions.” *Id.* at 84. He believes that since 2001 he has “been falsely accused and a label placed on me just simply because of who I am . . . and pretty much, you can’t please everybody.” *Id.* at 198. The individual also testified that his work conflicts arose in part because co-workers were jealous of his position and his high-level Q clearance. He also questioned how his co-workers and supervisor knew of personal and financial information in his background. Tr. at 39. With respect to his relationship with his wife, the individual stated that he is currently separated from his wife and still attempting to finalize a divorce. *Id.* at 200. He stated that other than discussing issues related to their children he has very limited conversation with his wife now.

5. Other Witnesses

The individual presented the testimony of six character witnesses, including his neighbor, co-workers, a former supervisor and his mother. His neighbor testified that he has known the individual for nine years, has never observed or heard any arguments between the individual and his wife, and would characterize the individual as an honest and dependable person. Tr. at 48-55. The individual’s co-workers similarly testified that the individual is a dedicated and hard worker. *Id.* at 106-107. One co-worker who worked in the same department as the individual stated that there was some tension between the individual and other employees in the department after a change in supervisors. *Id.* at 124. This co-worker also recalled that there was some tension between the individual and his

supervisor at the time, but never observed the individual acting in an inappropriate manner. *Id.* at 25. One of the individual's friends, who also worked for the same employer but not in the same department, testified that he has never observed the individual behaving in an intimidating manner. He considered the individual's interactions with others to be normal. *Id.* at 146-147. The individual's friend recalled that the individual mentioned that some employees in his department were "out to get him," but did not consider the individual as "having a chip on his shoulder." *Id.* at 152-153.

The individual's former supervisor, who supervised the individual for approximately one year, also testified on his behalf. He stated that the individual was a good employee who got along fine with his co-workers. *Id.* at 134. The supervisor further testified that he was aware of the individual's 2004 incident with his wife, particularly that he had a summons issued to him. *Id.* at 139. He stated that the clinical psychologist called to speak to him about the individual. *Id.* at 138. He recalled telling the clinical psychologist that the individual was a model employee. When asked whether the clinical psychologist questioned if the individual was defensive with respect to some of his co-workers, the supervisor stated that he responded, "yes" to the clinical psychologist. *Id.* at 140. However, he explained that "I said the young man has got a situation that a lot [of] people seem to have a tendency . . . like to pick at. And I said, my opinion, that he did the job that was asked. He wanted to excel and do a good job . . . his [interracial] marital status, some people looked at as a thing to throw little curves at, which had nothing to do with himself personally or the job." *Id.*

Finally, the individual's mother testified about the individual's character. She stated that the individual is a dependable person whom she taught to be confident and determined and to have high self-esteem. *Tr.* at 159. The individual's mother corroborated the individual's testimony that he was being harassed on his job by other employees because of his high-level clearance and his career aspirations. *Id.* at 166, 178. She also testified that co-workers had approached the individual concerning personal issues, i.e. comments about his filing bankruptcy, and queried how these people could have access to information in the individual's personal employment file. *Id.* at 189-190. She further indicated that the individual has never been a forceful or intimidating person, "he intimidates people just because of his size . . . size has nothing to do with anything, and I don't think a person should be judged on their size." *Id.* at 172. She reiterated that the individual was not liked on the job because he was "strong, self-assured and confident" and that the individual has been wrongly labeled with Narcissistic Personality Disorder. *Id.* at 192, 197. The individual's mother described the individual's wife as an insecure, controlling individual. She testified that shortly after the protective order was in place, she went to the individual's home to get him some clothes and was confronted by the individual's wife holding a gun. According to the individual's mother, "it didn't scare me as much as it made me angry, because I was thinking if he had gotten a deputy to go to the house with him to pick up his clothes and he had gone to that door first, she would have shot him, and it made me angry." *Id.* at 185.

B. Analysis of Hearing Testimony and Other Evidence in the Record

On the basis of the report of the DOE Psychiatrist, I find that DOE Security properly invoked Criteria H in suspending the individual's access authorization. It was reasonable for the DOE to conclude that a diagnosis of Narcissistic Personality Disorder by a trained professional meant that the

individual's judgment and reliability could be impaired, which would prevent the individual from safeguarding classified matter or special nuclear material. A finding of derogatory information does not, however, end the evaluation of the evidence concerning the individual's eligibility for access authorization. *See Personnel Security Hearing*, Case No. VSO-0154, 26 DOE ¶ 82,794 (1997), *aff'd*, *Personnel Security Review*, Case No. VSA-0154, 27 DOE ¶ 83,008 (1998) (*affirmed* by OSA, 1998). As stated earlier, the regulations state that "[t]he decision as to access authorization is a comprehensive, common-sense judgment, made after consideration of all the relevant information, favorable or unfavorable, as to whether the granting of access authorization would not endanger the common defense and security and would be clearly consistent with the national interest." 10 C.F.R. § 710(a).

I must try to resolve the differences between the two mental health experts, the DOE consultant-psychiatrist and a clinical psychologist who evaluated the individual and agree that he possesses a personality disorder, and the attending physician who also evaluated the individual and found no indication of a mental illness. Hearing Officers properly give a great deal of deference to the expert opinions of psychiatrists and other mental health professionals. *See e.g., Personnel Security Hearing* (Case No. VSO-0027), 25 DOE ¶ 82, 764 (1995). However, it is my responsibility as Hearing Officer to ascertain whether the factual basis underlying each diagnosis is accurate, and whether the diagnosis provides sufficient grounds, given all the other information in the record, for the denial of a security clearance. *See, e.g., Personnel Security Hearing*, Case No. VSO-0068, 25 DOE ¶ 82,804 (1996). On the basis of that evaluation, I find that the diagnosis made in the present case by the DOE consultant-psychiatrist has a proper factual basis. I am further persuaded by the testimony of the DOE consultant-psychiatrist and the clinical psychologist that the individual has a mental illness that may cause a significant defect in his judgment or reliability.

As stated earlier, the DOE consultant-psychiatrist conducted an hour and a half interview with the individual, reviewed the clinical psychologist's report, reviewed the individual's PSI, and gathered diagnostic testing data on the individual. Based on this evaluation, the DOE consultant-psychiatrist concluded that the individual met five of the nine criteria for Narcissistic Personality Disorder, numbers (1), (4), (5), (7) and (9), and explained how the individual met these criteria. For example, the DOE consultant-psychiatrist stated that in regard to criterion (1) "I took it as a grandiose statement that he [the individual] taught his wife how to deal with people, that there was another intelligent adult human and he assumed that he was the teacher and she was the student." Tr. at 243. With respect to criterion (9), the DOE consultant-psychiatrist stated that the individual exhibited an arrogant, haughty attitude during his interview with him. *Id.* at 245. Similarly, under criterion (7), the DOE consultant-psychiatrist explained that the individual lacks empathy and that he came to this conclusion after reading the interviews in the individual's file. According to the DOE consultant-psychiatrist, the individual contends that he's "very open to communication, but communication essentially means that other people will listen to him and agree with him. If there is not agreement, it's either seen by him as either harassment or they're hiding something or they're out to do some harm to him . . . The inability to perceive what his behavior does to another person makes it very significant in terms of the judgment and reliability issues on the criteria." *Id.* at 244-245. The DOE consultant-psychiatrist testified that if he had spent even more time with the individual "I believe there would have been more [criterion met] . . . , but I'm confident that I have five of the nine

criteria.” *Id.* at 243. As stated above, the clinical psychologist also interviewed the individual, administered and interpreted psychological testing, and reviewed pertinent information in the individual’s file. He concluded that the individual’s psychological evaluation revealed narcissism and paranoia, specifically Delusional Disorder, Persecutory Type overlaying a Mixed Personality Disorder. Based on the testimony of the DOE consultant-psychiatrist and the clinical psychologist as well as the evidence in the record, I am convinced that the diagnosis of Narcissistic Personality Disorder is well founded.

I was not persuaded to the contrary by the attending physician’s diagnostic impression of the individual. As stated earlier, the attending physician states in his notes that the individual exhibited no information or symptoms of a mental illness, rather he diagnosed the individual with Partner Relational Problem under the *DSM-IV TR*, and referred him to a marriage counselor. DOE Exh. 2. Unfortunately, the attending physician did not testify at the hearing, and there was no opportunity to cross-examine him. Furthermore, the attending physician wrote very brief notes of this evaluation but did not write a detailed report. Additional notes of the attending physician’s Psychiatric Diagnostic Interview Examination submitted by the individual are also limited. Ind. Exh. A. For these reasons, I cannot accord the same weight to this evidence as I give to the other two mental health experts who testified at the hearing.

It is the individual’s burden to present evidence which mitigates the security concerns of the DOE. At the hearing, the individual contended that the DOE consultant-psychiatrist’s diagnosis was wrong. Although he questioned the expert opinions of both the DOE consultant-psychiatrist and the clinical psychologist and tried to explain his marital situation and his workplace tensions, he did not offer any expert testimony to rebut the findings of the DOE consultant-psychiatrist nor did he present a reasoned argument as to why the diagnosis of Narcissistic Personality Disorder was wrong. In addition, the individual presented the testimony of six character witnesses during the hearing, all of whom testified that he was honest, dependable and exhibited only normal behavior. However, these lay witnesses, who I found to be very credible, are not qualified to opine whether the individual has a mental illness. Thus, I find that the testimony of these witnesses is inadequate to refute the DOE consultant-psychiatrist’s diagnosis. I find therefore that the individual has not resolved the security concerns raised by the diagnosis of a mental condition within the scope of Criterion H.

IV. Conclusion

As explained in this Decision, I find that DOE Security properly invoked 10 C.F.R. § 710.8(h) in suspending the individual’s access authorization. For the reasons I have described above, I find that the individual has failed to mitigate the associated security concerns associated with a diagnosis of Narcissistic Personality Disorder. I am therefore unable to find that restoring the individual’s access authorization would not endanger the common defense and security and would be consistent with the

national interest. Accordingly, I find that the individual's access authorization should not be restored. The individual may seek review of this Decision by an Appeal Panel under the regulations set forth at 10 C.F.R. § 710.28.

Kimberly Jenkins-Chapman
Hearing Officer
Office of Hearings and Appeals

Date: April 12, 2006